

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

GOLD CREEK CONDOMINIUM-PHASE  
I ASSOCIATION OF APARTMENTS  
OWNERS, a Washington non-profit  
corporation,

Plaintiff,

v.

STATE FARM FIRE AND CASUALTY  
COMPANY, an Illinois corporation; ST.  
PAUL FIRE AND MARINE INSURANCE  
COMPANY, a Connecticut company, THE  
AETNA CASUALTY AND SURETY  
COMPANY, a Connecticut Company;  
TRAVELERS CASUALTY AND  
SURETY COMPANY, a Connecticut  
Company; AETNA CASUALTY AND  
SURETY COMPANY OF ILLINOIS, a  
Connecticut Company; TRAVERLERS  
CASUALTY INSURANCE COMPANY of  
AMERICA, a Connecticut company; and  
DOE INSURANCE COMPANIES 1-10,

Defendants.

CASE NO. 20-5690 RJB

ORDER GRANTING MOTION TO  
COMPEL

1 This consolidated<sup>1</sup> matter comes before the Court on Defendant State Farm Fire and  
 2 Casualty Company's ("State Farm") Motion to Compel Disclosure of Settlement. Dkt. 40. The  
 3 Court has considered the pleadings filed regarding the motion and the remaining file.

4 This insurance coverage dispute arises from intrusive water damage alleged to be the  
 5 result of "hidden damage to weather resistive barrier, sheathing and framing" throughout the  
 6 Gold Creek Condominium complex which is located in Tacoma, Washington. Dkts. 12 and 29.  
 7 The Plaintiff condominium owners' association alleges that the Defendant insurers issued  
 8 policies that covered the damage and that they have improperly denied coverage. *Id.*

9 State Farm moves for an order compelling the Plaintiff to fully respond to its  
 10 Interrogatory No. 17 and Request for Production No. 21 regarding the disclosure of all settlement  
 11 agreements with other property insurers. Dkt. 40. For the reasons provided below, the motion  
 12 (Dkt. 40) should be granted.

### 13 FACTS

14 After State Farm propounded written discovery, the Plaintiff, on November 23, 2020,  
 15 responded, in part, regarding potential settlement with other insurers:

16 **INTERROGATORY NO. 17:** If you have entered into a settlement with any  
 17 other insurer or entity that includes payment for any of the property damage  
 18 alleged in this lawsuit, for each such settlement please state the name and address  
 19 of the settling insurer or entity, and the amount and terms of the settlement.

20 **ANSWER:** Overly broad and unduly burdensome. Object to the extent it requests  
 21 privileged information related to confidential settlements or information otherwise  
 22 protected under ER 408, attorney client privileged, or protected attorney client  
 23 work product. Without waiving such objections, the Association will not produce  
 24 documents related to confidential settlement agreements. No settlements have  
 been entered into to date.

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<sup>1</sup> On May 26, 2021, this case was consolidated with *Gold Creek Condominium – Phase I Assoc. of Apartment Owners v. Saint Paul Fire and Marine Ins. Co., et.al.*, U.S. Dist. Ct. for W.D. Wash. case number 21-5268, Dkt. 19. All future filings in these consolidated matters are to be filed in this case, *Gold Creek Condominium – Phase I Assoc. of Apartment Owners, v. State Farm Fire and Casualty Co.*, U.S. Dist. Ct. for W.D. Wash. case number 20-5690. *Id.*

**REQUEST FOR PRODUCTION NO. 21:** Produce the settlement agreement, release, and all other documents and correspondence relating in any way to any settlement described in your answer to the preceding interrogatory.

**RESPONSE:** Overly broad and unduly burdensome. Object to the extent it requests privileged information related to confidential settlements or information otherwise protected under ER 408, attorney client privileged, or protected attorney client work product. The Association will not produce documents related to confidential settlement agreements. No settlements have been entered into to date.

Dkt. 41 at 5. Plaintiff did not supplement these responses.

On February 21, 2022, Defendants took Plaintiff's Fed. R. Civ. P. 30(b)(6) deposition. *Id.* at 9-12. Plaintiff's Rule 30(b)(6) deponent testified that Plaintiff entered a confidential settlement with an insurance company named "Zurich." *Id.* at 10-11. After defense counsel asked questions about the nature of the settlement with "Zurich," Plaintiff's counsel objected and directed the deponent not to answer. *Id.* at 10-12.

The parties met and conferred on March 4, 2022 and April 6, 2022 and were not able to resolve the dispute. Dkt. 41, at 2. The requirements of Fed. R. Civ. P. 37(a)(1) and Local Rule W.D. Wash. 37(a)(1) are sufficiently met.

### **DISCUSSION**

Fed. R. Civ. P. 26(b)(1) provides:

Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

1 “The court should and ordinarily does interpret ‘relevant’ very broadly to mean matter that is  
2 relevant to anything that is or may become an issue in the litigation.” *Oppenheimer Fund, Inc. v.*  
3 *Sanders*, 437 U.S. 340, 351, n.12 (1978)(quoting 4 J. Moore, Federal Practice ¶ 26.56 [1], p. 26-  
4 131 n. 34 (2d ed. 1976)).

5 State Farm’s motion to compel (Dkt. 40) should be granted. It has demonstrated that the  
6 settlement information sought is relevant particularly to the extent the Plaintiff is asserting that  
7 the insurers are jointly and severally liable for the damage. Information on the other settlement  
8 is “proportional to the needs of the case, considering the importance of the issues at stake in the  
9 action, the amount in controversy, the parties’ relative access to relevant information, the parties’  
10 resources, [and] the importance of the discovery in resolving the issues. Rule 26(b)(1). Further,  
11 there is no showing that “the burden or expense of the proposed discovery outweighs its likely  
12 benefit.” Rule 26(b)(1).

13 The Plaintiff opposes the motion, arguing that the settlement was a confidential one. Dkt.  
14 42. The Plaintiff fails to point to any authority which holds that agreements between individuals  
15 to keep settlements confidential are protected by attorney-client privilege or work product  
16 privilege based on their agreement involving third parties. Further, whether the settlement  
17 agreement would be admissible at trial, particularly in light of Federal Rule of Evidence 408,  
18 does not change the result here.

19 The Plaintiff should be ordered to fully respond to State Farm’s Interrogatory No. 17 and  
20 Request for Production No. 21 within two weeks of the date of this order.

21 To the extent the Court grants State Farm’s motion, the Plaintiff “asks that the Court  
22 subject production of the settlement agreement to a protective order.” Dkt. 41. To the extent the  
23 Plaintiff moves for a protective order by this request, the motion (Dkt. 41) should be denied  
24


1 without prejudice. No explanation of what the Plaintiff proposes be in the order was given. The  
2 parties have not entered into a stipulated protective order like one based on the West. Dist. of  
3 Wash. Model Stipulated Protective Order.

4 **ORDER**

5 **IT IS SO ORDERED.**

6 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
7 to any party appearing pro se at said party's last known address.

8 Dated this 25<sup>th</sup> day of April, 2022.

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11 ROBERT J. BRYAN  
12 United States District Judge  
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